


PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Robert A. Ersek et al.	In Re:	Patent Term Extension Application
Patent No.:	5,571,182	Filed:	December 20, 2006
Issued:	November 5, 1996	Docket No.:	UPL0004/US/4
For:	TEXTURED MICRO IMPLANTS		

Mail Stop Hatch-Waxman PTE
Commissioner for Patents
Attn: Mary C. Till
600 Dulany Street
MDW 7D55
Alexandria, VA 22313-1450

I CERTIFY THAT ON September 18, 2007
THIS PAPER IS BEING TRANSMITTED VIA FACSIMILE TO:
571-273-7755 TO MARY C. TILL, MAIL STOP HATCH-WAXMAN
PTE, 600 DULANEY STREET, MDW 7D55, ALEXANDRIA, VA
22313.


RENEE A. WOLFF

COMMUNICATION TO RE-SUBMIT RESPONSE TO NOTICE OF INFORMALITIES

Applicant's representative contacted Mary C. Till, Legal Advisor in the Office of Patent Legal Administration, by phone on September 17, 2007 regarding a Response to Notice of Informalities and Supplemental Application for Extension of Patent Term Pursuant to 35 USC 156 that was returned by First Class Mail, stamped "Forwarding Order Expired" relating to the above referenced application. Mary Till indicated that in fact the correspondence address listed on the Notice of Informalities dated July 10, 2007 was incorrect. Ms. Till therefore requested re-submission of the Response to Notice of Informalities via facsimile to 571-273-7755. Accordingly, enclosed is a copy of the previously filed Response to Notice of Informalities and Supplemental Application for Extension of Patent Term Pursuant to 35 USC 156. This Response to Notice of Informalities and Supplemental Application for Extension of Patent Term Pursuant to 35 USC 156 was timely filed on September 6, 2007 as evidenced by the Certificate of Mailing dated September 6, 2007, and the date stamped envelope (copy attached herewith).

Patent Term Extension Application for 5,571,182
Page 2 of 2

Because the Response to Notice of Informalities and Supplemental Application for Extension of Patent Term Pursuant to 35 USC 156 were timely submitted on September 6, 2007 to the address listed on the Notice of Informalities, it is respectfully submitted that no fee is due. If any fee is required, please charge our Deposit Account No. 50-1775 and notify us of the same.

Respectfully Submitted,

Dated: 9/18/07

By: 

Amy J. Hoffman, 35,891

Customer Number 93072

Phone: 651-275-9807

Facsimile: 651-351-2954

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Mail Stop Hatch-Waxman PTE
Washington, D.C. 20231

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CANCELED, LEFT NO NOTICE

KAGAN BINDER, PLLC
Intellectual Property Attorneys
Suite 200, Maple Island Building
221 Main Street North
Stillwater, Minnesota 55082

WPL004/US/4

JUL 13 2007



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUL 10 2007

Amy J. Hoffman
KAGAN BINDER, PLLC
221 Main Street North, Suite 200
Stillwater, MN 55082

In Re: Patent Term Extension
Application for
U.S. Patent No. 5,571,182
Filed: December 20, 2006

NOTICE OF INFORMALITIES

The above-identified application for patent term extension is considered informal because the application does not comply with certain provisions of 37 C.F.R. 1.740.

The following requirements have not been complied with:

- (1) 37 C.F.R. 1.740(a)(1) requires a complete identification of the approved product as by appropriate chemical and generic name, physical structure or characteristics.

Here, Applicant has not identified the product other than to state that the approved product is an Injectable Urethral Bulking Agent known as Macroplastique® Implants.

- (2) 37 C.F.R. 1.740(a)(6) requires a complete identification of the patent for which an extension is being sought by the name of the inventor, the patent number, the date of issue, and the date of expiration.

Here, there is no identification of the correct issue date.

- (3) 37 C.F.R. 1.740(a)(6) requires a copy of any disclaimer, certificate of correction, receipt of maintenance fee payment or reexamination certificate issued in the patent

Here there is no copy of the terminal disclaimer filed in the prosecution of U.S. Patent No. 5,571,182, which disclaims over U.S. Patent No. 5,258,028.

- (4) 37 C.F.R. 1.740(a)(13) requires a statement that applicant acknowledges a duty to disclose to the Director of the United States Patent and Trademark Office and the Secretary of Health and Human Services or the Secretary of Agriculture any information which is material to the determination of entitlement to the extension sought.

Although Applicant have made a statement acknowledging their duty of disclosure, Applicants have not disclosed the second patent term extension application filing for the same product, Macroplastique® Implants, which was filed in U.S. Patent No. 5,571,182.

Applicant has **TWO MONTHS** from the date of this letter in order to file a complete application. Extensions of time under 37 CFR 1.136 are available. Failure to respond will result in the application for patent term extension being processed as an informal application. Alternatively, applicant may have the holding of informality reviewed as set forth in 37 CFR 1.740(c).

Any correspondence from applicant with respect to this matter should be addressed as follows:

Docketed - Kagan Binder

By GMB Date 7/13/07

Action PTE Formalities Done

U.S. Patent No. 5,571,182

2

By mail: Commissioner for Patents
Mail Stop Hatch-Waxman PTE
Washington, D.C. 20231

By FAX: (571) 273-0100
Attn: Office of Patent Legal Administration

Telephone inquiries related to this notice should be directed to the undersigned at (571) 272-7755.



Mary C. Till
legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Office of Regulatory Policy
HFD-7
5600 Fishers Lane (Rockwall II Rm 1101)
Rockville, MD 20857

Re: Macroplastique® Implants

Attn: Beverly Friedman

PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert E. Ersek et al.	In Re: Patent Term Extension Application
Patent No.: 5,571,182	Filed: December 20, 2006
Issued: November 5, 1996	Attorney Docket No.: UPL0004/US/4
For: TEXTURED MICRO IMPLANTS	

Commissioner for Patents
Mail Stop Hatch-Waxman PTE
Washington, D.C. 20231

I CERTIFY THAT ON September 6, 2007, THIS
PAPER IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST
CLASS MAIL IN AN ENVELOPE ADDRESSED: MAIL STOP HATCH-
WAXMAN PTE, WASHINGTON, D.C. 20231


RENEE A. WOLFF

RESPONSE TO NOTICE OF INFORMALITIES

Dear Sir:

The following remarks are submitted in response to the Legal Advisor's Notice of Informalities mailed July 10, 2007. The time period for response is set to expire on September 10, 2007. Accordingly, it is respectfully submitted that this response is timely filed. No fee is believed to be necessary to file this paper. Please charge any underpayment to Kagan Binder Deposit Account No. 50-1775 and notify us of the same.

It was stated that the application for patent term extension is considered informal as the application does not comply with certain provisions of 37 CFR 1.740.

Response to Notice of Informalities
U.S. Patent Term Extension Application for U.S. Patent No. 5,571,182
Page 2 of 4

REMARKS

Applicant's attorney thanks the Legal Advisor for the time taken to answer Applicant's questions during telephone calls and for her diligence in locating Applicant's third copending application for patent term extension.

A Supplemental Application for Extension of Patent Term Pursuant to 35 USC 156 is submitted herewith in response to the Legal Advisor's Notice of Informalities dated July 10, 2007. Applicants direct the Legal Advisor's attention to the following four locations in the Supplemental Application in response to the Legal Advisor noting that four requirements of 37CFR 1.74 were not met:

First, 37CFR 1.74(a)(1) requires a complete identification of the approved product as by appropriate chemical and generic name, physical structure or characteristics. In response to the first informality regarding providing the complete identification of the approved product, Applicant provides in the application on pages 1 to 2, the following description: "Macroplastique® is a permanently implanted, non-pyrogenic, injectable bulking agent composed of polydimethylsiloxane (silicone elastomer) particles suspended in a polyvinylpyrrolidone (PVP) carrier gel. Macroplastique is supplied sterile in a pre-filled, 3 cc syringe, containing approximately 2.5 ml of product. Sterilization is by gamma irradiation. Injection of Macroplastique is accomplished using the Uroplasty Administration Device (a manual device used to facilitate depressing the syringe plunger) and the Uroplasty Rigid Endoscopic Needle (both sold separately). Following injection into the tissue, the PVP carrier gel dissipates, leaving behind the silicone elastomer particles. The injection of Macroplastique creates increased tissue bulk, resulting in reduced urinary incontinence."

Second, 37 CFR 1.740(a)(6) requires a complete identification of the patent for which an extension is being sought by the name of the inventor, the patent number, the date of issue, and the date of expiration. Applicant provides on page 1 in the application, the following identification: "Letters Patent of the United States Number 5,571,182, issued on November 5, 1996, granted to inventors Robert A. Ersek, Arthur A. Beisang, III, and Arthur A. Beisang, expiring on November 2, 2010.

Third, 37 CFR 1.740(a)(6) requires a copy of any disclaimer, certificate of correction, receipt of maintenance fee payment or reexamination certificate issued in the patent.

Response to Notice of Informalities
U.S. Patent Term Extension Application for U.S. Patent No. 5,571,182
Page 3 of 4

Applicants direct the Legal Advisor's attention to page 2, item 4 where the terminal disclaimer is identified and to Exhibit I, which is a copy of the terminal disclaimer.

Fourth, 37 CFR 1.740(a)(13) requires a statement that applicant acknowledges a duty to disclose to the Director of the United States Patent and Trademark Office and the Secretary of Health and Human Services or the Secretary of Agriculture any information which is material to the determination of entitlement to the extension sought. Applicants direct the Legal Advisor's attention to page 2, item 5 wherein Applicants disclose the copendency of two other patent term extensions for the Macroplastique® Implants product.

Response to Notice of Informalities
U.S. Patent Term Extension Application for U.S. Patent No. 5,571,182
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CONCLUSION

In light of the foregoing remarks, it is respectfully submitted that the application for patent term extension is now compliant with the requirements of 37 CFR 1.740. It is also respectfully submitted that the present application is now in condition for allowance. The prompt issuance of a notice to that effect is respectfully solicited. If the Legal Advisor believes that a phone conference could resolve any remaining issues in the application, the Legal Advisor is invited to call the undersigned attorney at the number listed below.

Respectfully Submitted,

By:



Amy J. Hoffman, Reg. No. 35,897

Customer Number 33072

Phone: 651-275-9807

Facsimile: 651-351-2954

Dated: 9/16/07

37497

PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert A. Ersek et al.	Attorney Docket No. UPL0004/US/4
Patent No.: 5,571,182	
Issued: November 5, 1996	
For: TEXTURED MICRO IMPLANTS	

Commissioner for Patents
Mail Stop Hatch-Waxman PTE
Washington, D.C. 20231

I HEREBY CERTIFY THAT ON SEPTEMBER 6, 2007, THIS
CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL
SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO
COMMISSIONER FOR PATENTS, MAIL STOP HATCH-WAXMAN PTE,
WASHINGTON, DC 20231.


RENEE A. WOLFF

**SUPPLEMENTAL APPLICATION FOR EXTENSION OF
PATENT TERM PURSUANT TO 35 USC 156**

Dear Sir,

Applicant, Uroplasty, Inc., located at 5420 Feltl Road Minnetonka, MN 55343 ("Uroplasty"), represents that it is the assignee of the entire interest in and to Letters Patent of the United States Number 5,571,182, issued on November 5, 1996, granted to inventors Robert A. Ersek, Arthur A. Beisang III, and Arthur A. Beisang, expiring on November 2, 2010, by virtue of an assignment of such patent to Uroplasty recorded April 8, 1996 at Reel 7892, Frame 0124. The patent and its claims are directed to Textured Micro Implants forming the subject of regulatory review by the United States Food and Drug Administration.

On October 30, 2006, Uroplasty received permission for commercial marketing pursuant to Section 515 of the Federal Food, Drug and Cosmetic Act for its Injectable Urethral Bulking Agent commercially known as Macroplastique® Implants. Macroplastique® is a permanently implanted, non-pyrogenic, injectable bulking agent composed of polydimethylsiloxane (silicone elastomer) particles suspended in a polyvinylpyrrolidone (PVP) carrier gel. Macroplastique® is supplied sterile in a pre-filled, 3 cc syringe, containing approximately 2.5 ml of product. Inasmuch as the subject matter of the patent is directed to the approved bulking agent and since the patent issued

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before the regulatory review period concluded, including the clinical trials, the present Application for Extension is deemed appropriate.

Applicant hereby submits this application for extension of patent term under 35 USC 156 by providing the following information as required by 37 CFR 1.740:

(1) This application for patent term extension of US Patent Number 5,571,182 issued on November 5, 1996, to Robert A. Ersek, Arthur A. Beisang, III and Arthur A. Beisang, normally expiring on November 2, 2010 is timely filed within the sixty day period for submission pursuant to §1.720(f) as it is being filed within the time period ending December 28, 2006 which is the last day on which this application could be submitted.

(3) A copy of US Patent Number 5,571,182 is attached hereto as Exhibit A along with a maintenance fee statement (Exhibit B) establishing the status as being current.

(4) A terminal disclaimer (Exhibit D) was issued with respect to US Patent Number 5,571,182 stating that the term shall not extend beyond the expiration of US Patent Number 5,258,028. US Patent Number 5,571,182 has not previously been extended.

(5) Applicants hereby disclose two other patent term extensions have been filed for the same product, Macroplastique® Implants, which are copending and were filed for U.S. Patent Nos. 5,258,028 and 5,336,263.

(6) A claim chart attached hereto as Exhibit C showing each applicable patent claim demonstrating how the claims read on the approved product is also enclosed.

(continued on next page)

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(6) The relevant dates and information pursuant to 35 USC.156 to enable the Secretary of Health and Human Services to determine the length for the applicable regulatory review period are as follows:

(a) Testing Phase: Investigational Device Exemption ("IDE") Activity:

(1) June 30, 1999 the initial IDE #G990150/S1 submission occurred, with the submission being in a form outlining undertakings and conclusions to date. This IDE was submitted pursuant to 21 CFR Part 812. Copies of the initial cover letter and table of contents of the submission documents are attached as Exhibit D.

(2) July 30, 1999 – the FDA conditionally approves the IDE.

(3) August 24, 1999 – Applicant files IDE Supplement addressing requests of conditional approval.

(4) September 16, 1999 – FDA approves IDE attached as Exhibit E.

(b) Approval Phase: Premarket Approval ("PMA") Activity:

(1) December 21, 2004 the original PMA submission occurred for Macroplastique® Implants. The PMA cover letter and accompanying table of contents is attached as Exhibit F.

(2) February 9, 2005 Site Update was submitted and the cover letter for such update is attached as Exhibit G.

(3) March 16, 2005 PMA Amendment submitted.

(4) August 28, 2006 PMA Amendment.

(5) October 30, 2006 PMA Approved and is attached as Exhibit H.

(7) It is the opinion of applicant that US Patent Number 5,571,182 under consideration here is eligible for an extension period of 1,640 days (until April 30, 2015), this being the maximum period allowed pursuant to the provisions of 37 CFR 1.777(d) (1) through (d) (6). This extension period is determined on the following basis:

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THE EXTENSION PERIOD FOR U.S. 5,571,182 IS DETERMINED AS FOLLOWS:

The following refers to provision of 37 CFR 1.777:

c) The length of the regulatory review period for the product is the sum of:

- (1) The number of days in the period beginning on the date a clinical investigation on humans involving the device was begun and ending on the date an application was initially submitted with respect to the device under section 515 of the Federal Food, Drug, and Cosmetic Act:

September 16, 1999 (IDE Approval – date an exemption under §520(g) of Federal Food, Drug and Cosmetic Act first became effective) through submission of PMA on December 21, 2004 = 1924 days

- (2) Number of days beginning on the date the application was submitted under section 515 and ending on the date such application was approved:

(i) December 21, 2004 through October 30, 2006 = 678 days (approval phase);

(ii) the regulatory review period is considered to be 1,924 days plus 678 days = 2,602.

d) The term of the patent term extension is determined by:

- (1) Subtracting the number of days from the regulatory review period as follows:

(i) The number of days in the periods of paragraphs (c)(1) and (c)(2) of before the date on which the patent issued = zero days;

(ii) The number of days in the periods of paragraphs (c)(1) and (c)(2) of this section during which it is determined under 35 U.S.C. 156(d)(2)(B) by the Secretary that applicant did not act with due diligence = this number is considered to be zero days;

(iii) One-half the number of days remaining in the period defined by paragraph (c)(1) of this section after that period is

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reduced in accordance with paragraphs (d)(1)(i) and (ii) of this section = 1924 days divided by 2 = 962 plus approval phase of 678 = 1640 days;

- (2) Adding the number of days determined in paragraph (d)(1) to the original term of the patent as shortened by any terminal disclaimer (normal date of patent expiration) plus 1640 days = April 30, 2015;
- (3) By adding 14 years to the date of approval of the application under section 515 of the Federal Food, Drug, and Cosmetic Act or the date a product development protocol was declared completed under section 515(f)(6) of the Act = October 30, 2020
- (4) By comparing the dates for the ends of the periods obtained pursuant to paragraphs (d)(2) and (d)(3) of this section with each other and selecting the earlier date = April 30, 2015.
- (5) The original patent was issued after September 24, 1984,
 - (i) by adding 5 years to the original expiration date of the patent or earlier date set by terminal disclaimer = November 2, 2015; and
 - (ii) By comparing the dates obtained pursuant to paragraphs (d)(4) and (d)(5)(i) of this section with each other and selecting the earlier date = April 30, 2015.

(continued on next page)

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DUE DILIGENCE

Pursuant to the provisions of 37 CFR 1.777(d) (1) (ii), the Secretary of Health and Human Services may subtract a number of days from the regulatory review period during which the applicant did not act with due diligence. In this connection, it is applicant's established policy to exercise diligence in connection with those matters relating to the regulatory review of devices under the subject patent. The factual bases supporting exercise of this policy are as follows:

- (1) Applicant's organization has an employee whose sole responsibility is the handling of regulatory affairs. This person is Michael Morrell, Director of Regulatory Affairs, an individual with 10 years of experience in FDA matters;
- (2) The device which underwent regulatory review was and is the sole product of applicant's organization undergoing FDA §515 approval, and hence Mr. Morrell was able to devote full attention to matters involved in the regulatory review, and such matters were always handled with dispatch; and
- (3) Applicant is unaware of any circumstance during the regulatory review period when it did not act with due diligence.

(continued on next page)

U.S. Patent No.: 5,571,182

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(8) Marketing Applicant, Uroplasty, undertook significant activities before and during the regulatory review period with respect to the Macroplastique® Implants. Throughout the approval period, Uroplasty was marketing and selling the Macroplastique® product throughout the world. The activities and dates on which they occurred are summarized below:

- (a) Clinical subjects were enrolled in a study beginning April 1991 at the Departments of Urology at Nottingham City Hospital and Mansfield Kingsmill Hospital in the United Kingdom. A paper was published in 1996 entitled, "Peri-Urethral Silicone Microimplants (Macroplastique®) for the Treatment of Genuine Stress Incontinence" by Harriss D.R., Iacovou, J.W., Lember R.J. in the British Journal of Urology 1996, 787: 722-728.
- (b) November 1992 Uroplasty introduced the Macroplastique® Implants product to the market in Europe and it has been sold continuously to date.
- (c) Applicants sought CE Mark approval in Europe. On June 4, 1996 CE mark approval was received.
- (d) In June of 1998 Uroplasty introduced the Macroplastique® Implants product to the market in Canada and it has been sold continuously to date.
- (e) Preclinical Pre-IDE was submitted to the FDA on August 20, 1998.
- (f) Canadian regulatory approval referred to as a license was received on November 19, 1998.
- (g) Clinical Pre-IDE was submitted to the FDA on January 28, 1999
- (h) IDE was submitted to the FDA on June 30, 1999
- (i) Unconditional IDE approval was received on September 16, 1999
- (j) Site waiver letter was submitted by Applicant on January 28, 2000
- (k) On May 31, 2000 an IDE Supplement was submitted by Applicant to modify study criteria
- (l) On June 16, 2000 the IDE Supplement was approved by the FDA.
- (m) December 20, 2001 another IDE Supplement was submitted by Applicant to increase the number of sites.
- (n) January 17, 2002 – IDE Supplement approved

U.S. Patent No.: 5,571,182

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- (o) Site waiver letters were submitted on January 29, 2002 and January 30, 2003.
- (p) December 21, 2004 Uroplasty submitted PMA
- (o) On March 25, 2005 a deficiency letter was sent from the FDA
- (p) February 25, 2005 – Uroplasty requested a 100 day meeting
- (q) June 22, 2005 – Uroplasty submitted a Request for Guidance
- (r) July 27, 2005 IDE Completion Letter Submitted by Applicant Uroplasty
- (s) September 15, 2005 – Uroplasty requested an extension
- (t) September 27, 2005 – extension request granted by FDA
- (u) November 2005 – A pre-meeting material submission was made by Uroplasty
- (v) January 11, 2006 – Deficiency letter meeting was held
- (w) March 16, 2006 – PMA Major Amendment by Applicant
- (x) August 28, 2006 PMA Amendment
- (y) September 11, 2006 PMA Approvable Letter
- (z) September 14, 2006 PMA Amendment
- (aa) October 30, 2006 PMA Approval received
- (bb) Continuously throughout the testing and regulatory review periods, Applicant Uroplasty has developed markets for Macroplastique® Implants and is represented in forty (40) countries throughout the world.
- (cc) Applicant has entered into distribution agreements to service the various countries.
- (dd) Major markets for Macroplastique® Implants exist throughout Europe, Australia, Canada, South Africa, and Latin America due to Uroplasty's continued efforts to market and sell the Macropolastique® product.
- (ee) Applicant has sought protection for the name of this product by filing to register the mark, Macroplastique, as a community trademark in Europe and in the United States.

(continued on next page)

U.S. Patent No.: 5,571,182

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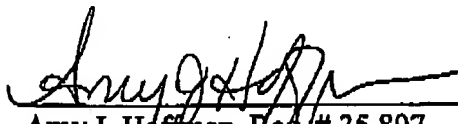
(9) Applicant acknowledges a duty to disclose to the Commissioner of Patents and Trademarks and the Secretary of Health and Human Services any information which is material to any determination to be made relative to this application for extension.

(10) The prescribed fee for receiving and acting upon this application for extension is \$1,120.00. A check in the amount of \$1,120.00 was submitted with the application filed on December 20, 2006, any deficiency or overpayment should be charged or credited to Applicant's Deposit Account 50-1775 as authorized in the accompanying letter, which is submitted in duplicate.

(11) Inquiries and/or other correspondence relating to this application for patent term extension are to be directed to:

Amy J. Hoffman, Registration No.35,897
KAGAN BINDER, PLLC
221 Main Street North, Suite 200
Stillwater, MN 55082
Telephone: 651-275-9807
Fax: 651-351-2954

Respectfully submitted,
KAGAN BINDER, PLLC



Amy J. Hoffman, Reg # 35,897
Attorney for Applicant
221 Main Street North, Suite 200
Stillwater, MN 55082
Phone: 651/275-9807

AJH:32427

PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert A. Ersek et al.	Attorney Docket No. UPL0004/US/4
Patent No.: 5,571,182	
Issued: November 5, 1996	
For: TEXTURED MICRO IMPLANTS	

Mail Stop: Patent Extension
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I HEREBY CERTIFY THAT ON _____, THIS
CORRESPONDENCE IS BEING SENT VIA EXPRESS MAIL IN AN ENVELOPE
ADDRESSED TO MAIL STOP PATENT EXTENSION, COMMISSIONER FOR
PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450
EXPRESS MAILING LABEL NO.: _____

Renee A. Wolff

Power of Attorney

Uroplasty, Inc., 5420 Feltl Road, Minnetonka, Minnesota 55343-7982, hereby
appoints all attorneys and/or agents associated with Customer Number 33072 to apply
for an extension of term of said patent, to make alterations and amendments therein, and
transact all business in the U.S. Patent and Trademark Office connected therewith, and
request that all further correspondence be addressed to:

Customer Number 33072.

UROPLASTY, INC.

Date: 06.20.2006

David B. Kaysen
David Kaysen
Its: President and Chief Executive Officer

32401

PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert A. Ersek et al.	Attorney Docket No. UPL0004/US/4
Patent No.: 5,571,182	
Issued: November 5, 1996	
For: TEXTURED MICRO IMPLANTS	

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Alexandria, VA 22313-1450

List of Exhibits

- | | | |
|---------|---|--|
| Exhibit | A | US Patent Number 5,571,182 (10 pages) |
| | B | Maintenance Fee Statement (1 page) |
| | C | Claim Chart (4 pages) |
| | D | June 30, 1999 cover letter and table of contents for the initial
IDE #G990150/S1 Submission (6 pages) |
| | E | September 16, 1999 – FDA approves IDE (1 page) |
| | F | December 21, 2004 cover letter and table of contents for the
original PMA Submission (7 pages) |
| | G | February 9, 2005 Site Update cover letter (1 page) |
| | H | October 30, 2006 PMA Approval (8 pages) |
| | I | Terminal Disclaimer with respect to US Patent Number 5,571,182
stating that the term shall not extend beyond the expiration of US
Patent Number 5,258,028. |

32434



US005571182A

United States Patent [19]**Ersek et al.**[11] **Patent Number:** **5,571,182**[45] **Date of Patent:** ***Nov. 5, 1996**[54] **TEXTURED MICRO IMPLANTS**

[76] Inventors: **Robert A. Ersek**, 62 Pascal, Austin, Tex. 78746; **Arthur A. Beisang, III**, 5883 Carlson St., Shoreview, Minn. 55126; **Arthur A. Beisang**, 1300 Ingerson Rd., Arden Hills, Minn. 55112

[*] Notice: The term of this patent shall not extend beyond the expiration date of Pat. No. 5,258,028.

[21] Appl. No.: 321,571

[22] Filed: Oct. 10, 1994

Related U.S. Application Data

[63] Continuation of Ser. No. 52,414, Apr. 22, 1993, abandoned, which is a continuation of Ser. No. 714,273, Jun. 12, 1991, Pat. No. 5,258,028, which is a continuation-in-part of Ser. No. 282,671, Dec. 12, 1988, abandoned.

[51] Int. Cl.⁶ A61F 2/02
 [52] U.S. Cl. 623/11; 623/66
 [58] Field of Search 623/11, 16, 66; 606/77, 92

[56] **References Cited****U.S. PATENT DOCUMENTS**

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 8805521 10/1988 WIPO .

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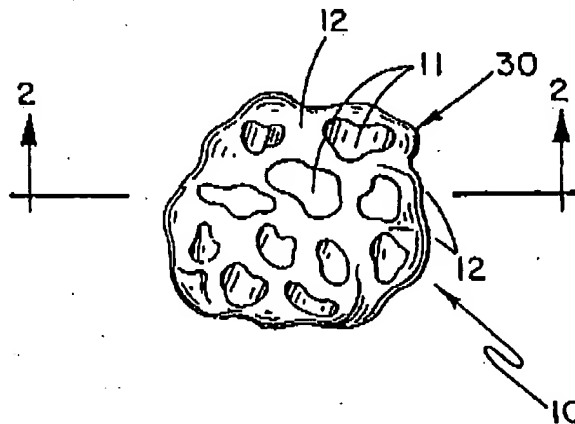
Dupont, Production Bulletin "Nen-Trac Microspheres", pp. 1-8, 1988.

Primary Examiner—Debra S. Brunningham
 Attorney, Agent, or Firm—Haugen and Nikolai, P.A.

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ABSTRACT

An improved micro-implantation method and composition for filling depressed scars, unsymmetrical orbital floors, muscle, lip, and other soft tissue defects is provided for use in reconstructive surgery procedures. Textured micro particles having an outside diameter between about 30 microns and 3000 microns are used with an appropriate physiologic vehicle cannula and syringe and/or pressure delivery system into a predetermined locus. The particles provide long-term filling of defects without migration loss.

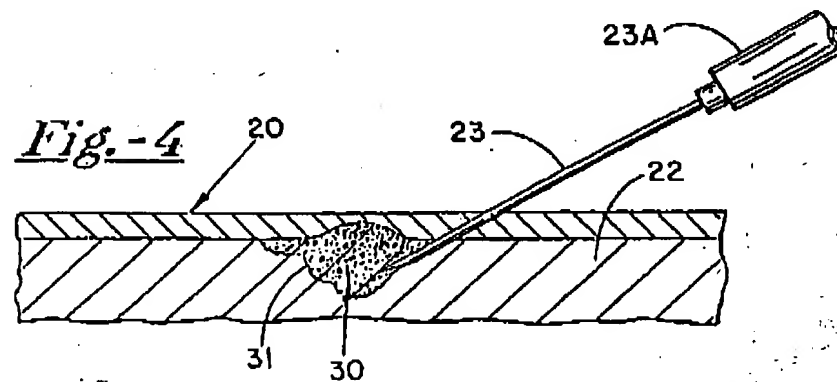
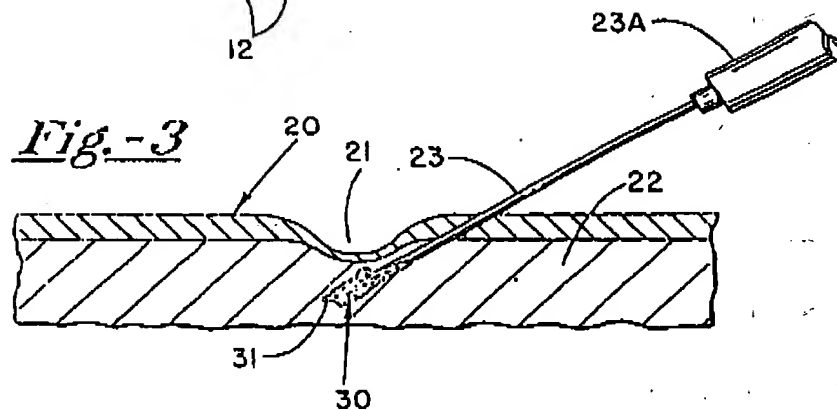
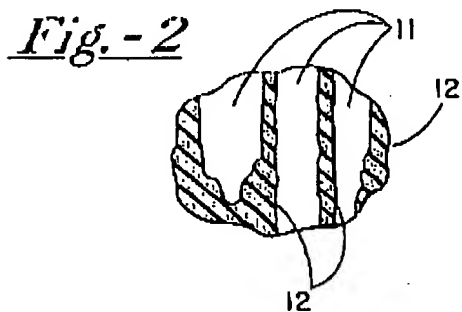
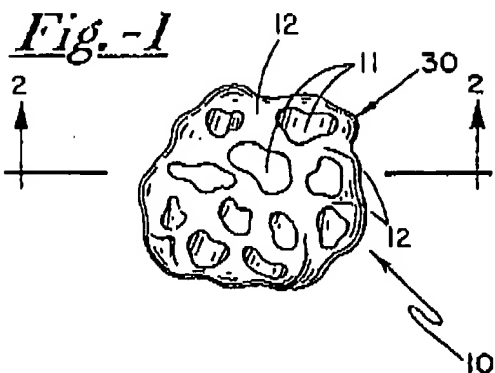
20 Claims, 2 Drawing Sheets

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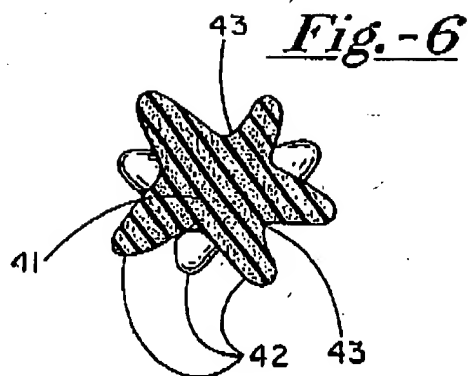
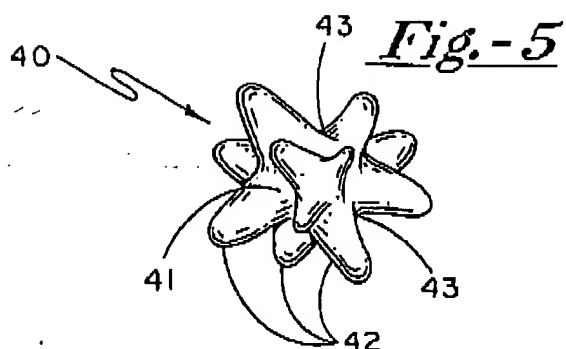


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TEXTURED MICRO IMPLANTS

CROSS-REFERENCE TO RELATED APPLICATIONS

This is a continuation of application Ser. No. 08/052,414, filed Apr. 22, 1993, abandoned, which is, in turn, a continuing application of Ser. No. 07/714,273, filed Jun. 12, 1991, now U.S. Pat. 5,258,028 issued Nov. 2, 1993, which is a continuation-in-part of application Ser. No. 07/282,671, filed Dec. 12, 1988, now abandoned.

BACKGROUND OF THE INVENTION

The present invention relates generally to the field of surgery and more particularly to surgery directed to the repair of injuries or defects, usually considered plastic and reconstructive surgery of the human body.

In the practice of plastic and reconstructive surgery, it is often necessary to employ the use of tissue or foreign materials to provide a means to fill in defects which may be present in the human body. One such defect which occurs is enophthalmus wherein one eyeball cannot be coordinated with the other due to differences in the volume of the orbital contents which may have been created by either trauma or developmental anomaly. Such a volume defect prevents coordination of binocular vision, interferes with appropriate opening and closing of defective eyelids, and adversely affects appearance.

Another exemplary defect is an uneven vermillion border that is the result of a laceration, or from a cleft lip surgical repair. During the initial apposition of the separated tissues, there is tension and resultant loss of three dimensional symmetry of structure. By increasing the volume of the lip, three dimensional symmetry of structure is restored and the vermillion border is not disrupted. Paralysis or ablation of the vocal cords causing aphonia or dysphonia may be corrected by such augmentation. Traumatic or surgically altered bones, skin and subcutaneous tissue often have similar defects that interfere with form, function, or both.

In the practice of plastic and reconstructive surgery, inert materials have frequently been implanted to fill these defects. Recently, various collagen compounds and fibrin matrices have been injected to fill these defects. Bioactive materials such as hydroxyapatite or coral granules (osteoconductive) have been used for hard tissue defects. Another prior art technique is to use adjacent or distant autologous tissues. Also, but on a rare or infrequent basis, cadaver and other species tissues have been used for fill-in substances. Liquid silicone has been used in the past as an injectable substance for very small defects. Although some scar tissue forms around the silicone liquid droplets, it is subject to rampant and distant migration throughout the body and the ultimate location for such substances tends to be unpredictable. As a result, liquid silicone has generally been viewed as a dangerous substance by most plastic surgeons. Although it has been useful in controlled studies in very small (one-tenth of a cc. to 1 cc.) injections, it is currently not approved for general use because of its tendency to migrate.

While it has been suggested to compound certain very small particle species in a lubricious material and to inject such combination micro particle media subcutaneously for both soft and hard tissue augmentation, heretofore success has been limited. Undesirable subsequent particle migration and serious granulomatous reactions commonly resulted. This is well documented with such materials as polytetrafluoroethylene spheres of very small diameter (>90% of a

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diameter ≤ 30 microns) in glycerine. See, for example, Malizia, et al., JAMA, Volume 251, No. 24, pp. 3277-3281 (1984), as a typical commentary or evaluation. The use of very small diameter particulate spheres (approximately 1-20 microns) or small diameter elongated fibrils, (generally 1-30 microns in diameter) of various materials such as cross-linked collagen in a biocompatible fluid lubricant as injectable implant compositions are disclosed in U.S. Pat. No. 4,803,075. While these materials create immediate augmentation, they also have a tendency to migrate and/or be reabsorbed from the injection site.

In accordance with the present invention, very small particles or micro particles and, in particular, textured micro particles are employed as an injectable solid substance for use in reconstructive surgical procedures. Textured micro particles having an outside diameter of between about 30 and 3000 microns (or between approximately 0.003 and 0.3 cm.) may be injected into the body along with an appropriate physiologic vehicle to enable the filling of defects. Accordingly, and in accordance with the present invention, textured micro particles to be described in more detail hereinafter may be employed which are fabricated from an elastomer such as silicone, an inert material such as polytetrafluoroethylene (Teflon), bioactive materials such as hydroxyapatite, ceramics or other inert substances. These textured micro particles may be introduced and placed at a precise location, and because of the textured configuration, tissue ingrowth will prevent dislodgement and ultimate migration. Furthermore, any over-correction can be readily adjusted by use of blunt cannulas and suction which provides for safe removal.

SUMMARY OF THE INVENTION

In accordance with the present invention, textured micro particles having a nominal diameter of between about 30 and 3000 microns (0.003 to 3.0 mm) are selected. These textured micro particles present generally amorphous surfaces, and normally possess indentations ranging in size from, for example, 10Å (angstroms) to 500 microns with the indentations having irregular configurations and surfaces. Furthermore, a minimal inter-indentation distance is provided so that the particles may be injected through an appropriate hypodermic needle of the appropriate preselected size, and with or without an appropriate physiologic vehicle. Examples of appropriate physiologic vehicles are saline, various starches, hydrogels, polyvinylpyrrolidones, other polymeric materials, polysaccharides, organic oils or fluids, all of which are well known and utilized in the art. Vehicles that are biologically compatible, i.e., cause minimal tissue reaction and are removed or metabolized without cytotoxicity, are, of course, utilized.

Biologically compatible saccharides such as glucose have been found useful. Vehicles such as aqueous solutions of starch may also be employed. In certain instances, it may be desirable to employ a totally inert vehicle such as silicone oil or the like. Certain fats may also be found useful. In this connection, highly compatible vehicles include esters of hyaluronic acids such as ethyl hyaluronate and polyvinylpyrrolidone (PVP). PVP normally has the general empirical formula $[(CH_2CH_2)_nN(CH_2)_3CO]_n$ wherein n equal 25-500, a form of which is otherwise known and marketed as Plasdone™ (trademark of GAF Corporation, New York, New York). Additionally, polyvinylpyrrolidone (Plasdone), hyaluronate, collagen and other biocompatible substances may be incorporated into the elastomer or combined with its surface. Another biocompatible vehicle is the patient's own plasma. Blood may be withdrawn from the patient, contri-

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suged to remove cells (or not) and mixed with appropriate aliquots of particles and the mixture injected in the desired locations.

In certain instances, it has been found desirable to utilize a surface modifier in combination with the micro particles, with materials such as polyvinylpyrrolidone, collagen, or hyaluronates having been found suitable. A surface modifier may be defined generally as a material combined into the formed particle, applied to the surface of the particle or added to the carrier vehicle to alter inter-particle or prosthesis-host interaction and/or particle identifiability. These surface modifiers may alter the coefficient of friction of the particles as by making them more lubricious, render the particles more radiopaque, assist in detoxification, and/or render the surface of the particles more susceptible to tissue ingrowth.

In this connection, the surface modifiers such as polyvinylpyrrolidone or polytetrafluoroethylene may be mixed into the substance of or with the micro particles, and furthermore may thereafter be coated with a layer of a hyaluronate or hyaluronic acid. Specifically, certain modifiers such as polytetrafluoroethylene may be admixed with, for example, a poly di-substituted siloxane particle material prior to cure to impart an average surface modification to the cured particle. A material such as hyaluronic acid may be attached to the micro particle surface either through physical or chemical bonding. Surface modifiers also can be used to typically assist in detoxification and promote the desired tissue ingrowth encapsulation. Other bioactive substances that can be included in the carrier or attached to the surface of the beads to promote encapsulation include fibronectin, transforming growth factor beta, and various other cytokines such as interleukin-1.

Once implanted, the body will form a thin scar tissue around each of the implants so as to provide initial encapsulation. Polyvinylpyrrolidone, hyaluronate or collagen or other biocompatible substances may be chemically or physically combined with the particle substance or its surface to enhance the acceptance of the implant by the host. While in most situations the particles are of random size and configuration, but within the constraints of size indicated, it is generally desirable that the particles be of generally uniform configuration whenever possible.

For example, for soft tissue, a soft elastomer such as silicone rubber is a desirable material for the textured particles. When a firm area is being treated, such as connective tissue or the like, polytetrafluoroethylene (Teflon) or polyethylene may be satisfactorily utilized. In those instances wherein the requirement is for hard substances, biocompatible materials such as certain calcium salts including hydroxyapatite or other such crystalline materials, biocompatible ceramics, biocompatible metals such as certain stainless steel particles, or glass may be utilized.

By way of further background, the average diameter of a capillary is approximately 16 microns, or roughly two times the diameter of a red cell. Therefore, since the size of the textured micro particles is in the area of at least approximately 30 microns, they will not be absorbed into the capillaries, but will on the other hand, remain generally captive and fixed in place. Smaller particles, in the sub-micron range, have been implicated in causing inflammation and may be ingested by host cells. Thus, particles in the range of between about 30 and 3000 microns are employed.

The fibroblast cell is the scar-forming cell of the human body, and these cells range in size from between about 20 microns up to about 100 microns, and because of contact

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guidance, it will form a scar tissue or collagen-based coating around an inert foreign body. Furthermore, such scar tissue will conform to the irregularities in the surface of the foreign body, particularly if they are of sufficient size to accommodate tissue ingrowth. Our previous studies (American Society of Artificial Internal Organs; U. S. Pat. Nos. 3,638,649; 3,657,744; 4,299,492; and 4,240,794) have shown that foreign substances can be substantially firmly anchored in a predetermined location in the body. Because of the inherent ability of fibroblasts to form scar tissue in and around irregularities of the surface, such anchoring occurs in many locations, including locations within the blood stream.

Therefore, it is a primary object of the present invention to provide an improved method and apparatus for use in reconstructive surgical procedures, with the method employing textured micro particles which may be injected along with an appropriate physiologic vehicle into a predetermined locus within the body.

It is yet a further object of the present invention to provide an improved method and apparatus for use in reconstructive surgical procedures wherein textured micro particles having an outside diameter of between about 30 and 3000 microns may be employed along with an appropriately selected physiologic vehicle for implantation or injection into a predetermined locus.

It is yet a further object of the present invention to provide an improved method and apparatus for use in reconstructive surgical procedures wherein textured micro particles having an outside diameter of between about 30 and 3000 microns may be injected into a predetermined locus of the body for the purpose of filling of defects in reconstructive surgery, with a syringe device having an inwardly tapered out-flow tract being desirable for use with particles having a size within the upper range.

Other and further objects of the present invention will become apparent to those skilled in the art upon a study of the following specification, appended claims, and accompanying drawings.

IN THE DRAWINGS

FIG. 1 is a perspective view of a textured micro particle useful in accordance with the present invention, and illustrating surface irregularities typically present in the particle;

FIG. 2 is a vertical sectional view taken along the line and in the direction of the arrows 2-2 of FIG. 1;

FIG. 3 is a schematic illustration of a fragmentary portion of human skin organ, and illustrating a hypodermic needle of appropriate size being utilized to introduce materials in accordance with the present invention into the subcutaneous zone beneath a depressed scar;

FIG. 4 is a view similar to FIG. 3, and illustrating the same location following subcutaneous injection of the textured micro particles in accordance with the present invention;

FIG. 5 is a perspective view of a modified form of useful particle wherein the surface irregularities project outwardly from a body member in pillar form, with the central body portion being in the form of a spheroid; and

FIG. 6 is a cross-sectional view of the device of FIG. 5.

DESCRIPTION OF THE PREFERRED EMBODIMENT

With attention being directed to FIG. 1 of the drawings, it will be observed that a micro-implant particle generally designated 10 comprises an inner-core having randomly

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distributed throughout its surface, various surface irregularities indentations interstices, cavities, openings or pores 11—11. These pores referred to collectively as pores are spaced apart by connective pillar members 12. As indicated above, the pores preferably have a minimum indentation depth or open dimension of about 10 Angstroms, along with a maximum dimension of about 500 microns. The interconnective or pillar zones 12—12 which separate or otherwise define solid material between pores 11—11 have a dimension or breadth sufficient so that the majority or greater portion of the surface is defined by indentations, pores.

With continued attention being directed to FIGS. 1 and 2 of the drawings, connective elements 12 are available on the surface of the micro-implant particles and provide for mechanical stability of the individual particle. This arrangement is illustrated in particular in FIG. 2.

In accordance with the present invention, it has further been found that inert foreign tissue augmentation particulate matter having a mean diameter less than about 30 microns will generally become subject to significant migratory loss from the site of injection regardless of surface configuration absent extraordinary protection. The textured nature of the surface of the microspheres of the invention, however, imparts to them an apparent size equivalency which, in the case of at least the relatively smaller sized particles (particularly in the range of 30–60 and up to 80 microns), makes them behave, once injected, as much larger smoother particles might behave with respect to host implant or prosthesis migration tendencies and benign assimilation in scar tissue. Particulate matter of the class of the present invention which is of a preferred size ranging from about 30 microns to about 3000 microns and having a textured surface in which the surface irregularities vary in size over a range of about 10 Angstroms to 500 microns.

The irregularities, pores and interstices are designed to have widths ranging from those having a diameter or opening size which will just accommodate the infiltration of a typical connective tissue fibril or protein molecule at the lower end to those large enough to accommodate ingrowth of much larger cross-linked protein, possibly collagen protein, fibrillar structures or actual fibroblasts at the high end. In this regard, it is well known that the collagen fiber is composed of fibrils and filaments. The basic poly-peptide chain is arranged into micro-filaments of tropocollagen having a diameter of approximately 20 Angstroms. It has been found that surface irregularities as small as 10 Angstroms will interdigitate with the filaments on the surface of the fibers and serve to resist host-prosthesis interface motion.

Further, with respect to particle size, it will be appreciated that particle size, particularly of those species contained in preparations utilized in prior injectable compositions, tends to vary over a range within any group of particles so that there will be a percentage of the group larger and a percentage of the group smaller than at target size in any such composition. In addition, the shape and size of the pores associated with a given group of particles will also describe a range. It will further be appreciated that one must take into account the normal variation in patient-to-patient acceptance and reaction to tissue augmentation injection of micro particles. With this in mind, certain observations have been made regarding optimum particle size, particularly with regard to the severe problems of unwanted migration and formation of granulomatous reactions.

Observations in a variety of clinical situations indicate that particles less than about 60 microns in diameter can be

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engulfed by macrophages and transposed to regional lymph nodes. Submicron-sized particles may be the most easily transported and may remain intracellular indefinitely. However, larger particles, particles that approach the size of a macrophage, i.e., from about 20 to about 60 microns, may cause the death of a cell when engulfed. This begins a progression in which the dead cell releases its intercellular enzymes (cytokines), and these attract other phagocytes which, again, encounter and engulf the particle with the debris of the first encounter. In this manner, a vicious cycle continues on a larger scale as a chronic inflammatory response. Of course, such a response is highly undesirable.

Particles greater than about 60 microns, however, have not been observed within a cell or within lymph nodes; and, certainly, particles greater than 80 microns appear safe from initiating such foreign body reactions. Further, as in the example below, particles of an average diameter of 100 to 600 microns with textured surfaces having an average pore size from about 10 microns to about 200 microns have been observed to work quite well. Theoretically, there is no upper limit to the size of the textured particles, and this is borne out by the success of sintered-surface hip implants, textured breast implants and others. However, the useful upper limit of micro implant dimensions is probably somewhere in the vicinity of 1 to 3 mm in defects just beneath the skin surface because particles of a size greater than this may be perceived as surface irregularities when palpated. Large textured implants have also been employed in breast reconstruction, for example.

It will be appreciated that textured spheroids of the class contemplated for use in the present invention may be molded, for example, by any gravity-free technique wherein the spheroids are formed with centrifugal force equal to that of gravity in cases where the spheroids are formed of rather malleable synthetic material. Spheroids can be fabricated from a variety of inert substances such as polytetrafluoroethylene, poly(methyl-methacrylate), poly substituted siloxanes (silicones) and a variety of other synthetic polymeric materials, ceramics and others and different fabrication processes may be applicable to each material for the augmentation of soft tissue. Of course, fabrication of the spheroids from a malleable polymer material such as a silicone rubber is preferred as it will more closely imitate the texture of the natural tissue it replaces. With respect to malleable polymers such as silicone rubber, the following fabrication techniques are exemplary of those that will readily enable manufacture by those skilled in the art. It will be appreciated that a technique that might be preferred for one material may not work equally well for all.

In one process, a malleable stock of unvulcanized polydimethylsiloxane is rolled into spheroids of approximately 100 microns or other desired size diameter. The surface is then textured by impacting each spheroid with an appropriate force. The textured spheroids are then vulcanized and mixed with the appropriate vehicle for injection.

In another successful method, generally preferred for forming beads of silicone rubbers, poly(di-substituted siloxane) silicone rubber of the type desired, normally poly(dimethyl siloxane) may be dispersed in an appropriate volatile solvent and then partially cured by droplets being forced through a specific distance of air from an orifice having a specific diameter. This is a very familiar process technique generally known with respect to the operation of a shot tower in making lead shot. The size of the beads or spheroids is easily regulated by varying the viscosity of the mixture and/or the orifice of origin. As the particle travels a known distance through air, it is partially cured as the volatile

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vehicle evaporates. The specifically formed spheroid or bead is then separated by a suitable fluid medium. The spheroids may then be pressed against an appropriate surface or impacted by an appropriate force to impart the desired texture, the surface having an appropriate mold release. Partially cured spheroids are then vulcanized by heat irradiation. The particles are then sized and graded by physical means. Spheroids are then mixed with the appropriate vehicle in appropriate ratios, placed in containers and finally sterilized within the container.

Texture can be imparted to the beads or spheroids in a number of ways. In addition to the molding method, other techniques include ion-beam microtexturing which makes it possible to produce controlled microtextured surfaces, chemical and plasma etching and impacting the beads with solid particles. Of course, it is contemplated that other methods could also occur to those skilled in the art.

If desired, surface modifiers, as explained above, can be incorporated in the material prior to formation of the spheroids or beads or may be thereafter be added as a coating on the deformed surfaces. In this manner, certain materials such as hyaluronic acid, for example, may be attached to the micro particle surface either through physical or chemical bonding in a well-known manner after formation and texturing.

EXAMPLE I

Amounts of particles with average diameters of 100, 150 and 600 micrometers were fabricated with a textured surface from fully polymerized and vulcanized poly(dimethylsiloxane). The polymer was mixed to form a biocompatible solution with an organic polymer hydrogel. The hydrogel was a polyvinylpyrrolidone gel having an average molecular weight of approximately 13,700 and one of a family of such material known as Plasdones. These materials in the molecular weight range of interest are freely transported through tissue fluids and excreted unchanged by the kidneys. The mixture utilized was approximately 38% by weight of the polymer and 62% of the gel material. The polymer/gel mixture was diluted with deionized water, mixed until the inert particles were evenly dispersed and then placed in 1-cc cylinders with small pistons placed in the proximal ends. The distal end of each cylinder would be attached to a 1-cc syringe with a Luer lock on the end and a piston member could be inserted in the proximal barrel. A highly leveraged injection ratchet mechanism was utilized to accept the syringe cartridges and deliver precise amounts of the gel mixture through a cannula into the subcutaneous plane of the ear tissue of 20 large, adult white rabbits. Controls using commercially available collagen derivatives were injected in the subcutaneous plane in adjacent sites in the rabbits' ears using small gauge needles provided by the manufacturers of the collagen derivatives.

With respect to the injected collagen control sites, subsequent histologic sections indicated that after three weeks, no residual collagen could be found at the site of the injection. In dramatic contrast, the histologic sections of the micro particles evidenced a dramatic transition in which the gel phase of the material was replaced by a fibrin and protocollagen matrix surrounding each of the micro particles. In three days, the fibrin matrix was complete, with all the gel having been removed by the host. Connective-tissue cells had developed and had begun to replace the matrix with host collagen fibrils. By the sixth week, this fibrosis was complete, and each individual textured particle appeared to

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be encased in its own individual inner connected covering of fibrous tissue. The thickness of the implanted area and the degree of fibrosis as measured by transillumination, micrometer and light and electron beam microscopy remained constant for more than a year.

Subsequent histologic examination of the regional lymph nodes at the base of the rabbit ears revealed no migration of particles. Cross-sections of the ear below the injected area showed no particles. Through transillumination, the size and density of the areas of injection were easily and automatically monitored for each rabbit. No textured micro implants were found at the base of the ears or in the regional lymph nodes of any of the rabbits under study.

The dimensions of the subcutaneous deposits of textured micro implants remained approximately the same throughout the period of study, as was evidenced by transillumination photographic record and micrometer measurement. Opacity was noted to decrease over the last few weeks as the transillumination became brighter but then appeared to stabilize between the end of the first and the sixth months.

The results obtained with the experimental particles of Example 1 illustrate the dramatic contrast between this material and the injection of collagen-containing materials. Although the collagen-containing materials created immediate soft tissue augmentation, these substances—which are only about 3.5 to 6.5% solid collagen material—soon became invaded by host capillaries and were absorbed. No absorption or migration of the 100, 150 or 600 micron silicone rubber particles was observed, even after 382 days.

In other experiments, particles having an average diameter of 80 microns and incorporating tracer material in the form of gamma radiation-emitting material were injected into the ears of other rabbits. These particles showed no migration from the injection site during a subsequent six-month monitoring period.

While prior work by the inventors and others have shown that surface irregularities preferably are in the 20 to 200 micron range in order to achieve adequate contact guidance of the fibroblasts so as to create or develop a scar tissue pattern that is a mirror image of the substrate surface, it is also appreciated that the particle size in relation to the relative size of the surface irregularities is a factor to be considered. In this connection, if the openings, pores are too shallow in their depth dimension, or in the event their diameter is not sufficiently great, the fibroblasts will tend to bridge across the defect so as to provide a substantially smooth surface. In the preferred embodiment of the present invention, the particles indicated or selected for a specific procedure to assist in correcting a given defect are previously loaded into a hypodermic syringe with a needle having an adequately sized interior bore so that upon injection of the needle into the area of the depression being corrected, the particles together with the appropriate physiologic vehicle enables the spheroids to be injected directly into the area of the depression. Appropriate vehicles, as previously indicated, include physiologic saline or polysaccharide lubricants, each of these enabling the spheroids to be injected as set forth.

With attention being directed to FIG. 3 of the drawings, it will be noted that surface tissue as shown at 20 includes a depression area 21, with the depression area extending into the subcutaneous tissue as at 22. For utilization of the concept of the present invention, the needle 23 is shown as it is injected into tissue. Particles 30, of the type illustrated in FIGS. 1 and 2, along with vehicle 31 are injected into the predetermined site, with the result being filling of the

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depression area, particularly as illustrated in FIG. 4. Upon withdrawal of the needle 23, the injected material is left in situ at the selected site. The supply of particles 30 retained and carried within vehicle 31 may be conveniently retained in syringe body zone 23A for passage through hollow needle 23. Syringes of this type are, of course, commercially available, and suitable for particles in the low to mid-size range, while larger particles within the size range may require an inwardly tapered out-flow tract. For certain applications, it has been found desirable to utilize a syringe-needle combination which tapers continuously, thereby providing an elongated syringe-needle combination with an inwardly tapered out-flow tract.

Generally, upon completion of the inflammatory phase of wound healing, or after approximately one week, formation of scar tissue commences with this becoming complete after about three weeks. Following completion of the deposition and formation of scar tissue, a remodeling phase or operation may be undertaken. In view of the specific irregularities and indentations of the surfaces of the individual particles, contact guidance will normally allow for the resulting scar tissue to firmly anchor and attach the implanted particles 30 wherever deposited. As borne out by the example, although various biological substances have been used for similar purposes, such as collagen and fibrin, these other previously utilized substances are normally broken down by the body over a period of time and digested autogenously. It is anticipated that the micro particles fabricated of silicone rubber, polytetrafluoroethylene (Teflon), ceramic or other appropriate inert substances will mimic the durometer hardness of the host tissue being filled, with the softer materials, such as silicone rubber being utilized for normal subcutaneous fat tissue, and with ceramic materials being utilized for bone tissue. Polytetrafluoroethylene (Teflon) is deemed suitable for cartilage, and silicone elastomer with variations in firmness for subcutaneous fat in various regions of the body. In the event the procedure involves an over-correction, the use of lipoplasty techniques of suction lipectomy with a cannula of appropriate diameter will allow for fine tuning, even after several months or years. Removal of an appropriate quantity of filler material may be accomplished in that fashion.

Specific attention is now directed to the modification of particle configuration illustrated in FIGS. 5 and 6. Specifically, the textured micro particle generally designated 40 comprises a central body portion 41 of generally spheroidal form, together with a number of outwardly projecting pillar members 42—42 thereon. Inter-pillar indentations of generally arcuate form are shown at 43—43. Textured micro particles of the type illustrated in FIGS. 5 and 6 may also be found useful in connection with the various aspects of the present invention. In actual use, these micro particles will be combined with an appropriate vehicle, of the type previously referred to, such as physiologic saline, PVP or polysaccharide lubricant, so as to enable these textured micro particles to be injected into the body. Also, textured micro particles of the type illustrated in FIGS. 5 and 6 may be formed of the same material as indicated in connection with the embodiment of FIGS. 1—4, such as for example, silicone rubber, polytetrafluoroethylene (Teflon), biocompatible solids such as, for example, hydroxyapatite or other biocompatible solids of the type listed hereinabove.

Radiopaque substances may be utilized, such as, for example, barium compounds to make the particles more visible. Radioactive materials may also be incorporated for certain applications. In most instances, however, utilization of such radiographic tagging will not be required.

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It will be appreciated that the specific examples provided herein are given for purposes of illustration only, and are not to be construed as a limitation upon the scope of the present invention, and that those skilled in the art may depart from the specific examples without actually departing from the spirit and scope of the present invention.

What is claimed is:

1. An injectable particulate implantation system for long-term augmentation of soft tissue, comprising in combination:

(a) an amount of generally soft, malleable, elastic, biologically compatible non-resorbin prosthetic particles dispersed in a non-retentive compatible physiological vehicle, said particles being further characterized by a rough surface texture having a plurality of surface irregularities generally randomly formed therein;

(b) said implantation system incorporating a combination of average particle size and average particle texture sufficient to cooperate in an autogenous manner to substantially prevent loss of said particles from an augmentation site, said particles remaining in situ to form part of a permanent implant.

2. The injectable implantation system of claim 1 being particularly characterized in that the range of average particle size is between 100 microns to 600 microns.

3. An injectable particulate implantation system for long-term augmentation of soft tissue, comprising in combination:

(a) biologically compatible particles of a relatively soft, resilient, non-resorbing material dispersed in a non-retentive compatible physiological vehicle, the particles being further characterized by a rough surface having a plurality of surfaces irregularities randomly formed therein and further comprising openings or pores;

(b) the particles having an average particle size generally between 30 and 3000 microns with a dimension of the openings formed by the pores within the particles being generally in a range between 10 angstroms and 500 microns;

(c) wherein the implantation system average particle size and average roughness of texture are sufficient in combination to, in an autogenous manner, substantially preclude migration of the particles from an augmentation site, such that the particles remain in situ to form part of a permanent implant.

4. The injectable implantation system of claim 3 wherein the particles further comprise an amount of at least one surface modifier to accomplish at least one of assisting in detoxification and promoting tissue ingrowth.

5. The injectable implantation system of claim 4 wherein the at least one surface modifier is incorporated into the micro particle prior to particle formation.

6. The injectable implantation system of claim 4 wherein the at least one surface modifier is selected from the group consisting of polyvinyl pyrrolidone, collagen and an hyaluronate.

7. The injectable implantation system of claim 6 wherein the surface modifier is dispersed in the physiological vehicle.

8. The injectable implantation system of claim 7 wherein the surface modifier is biologically active.

9. The injectable implantation system of claim 4 wherein the surface modifier is biologically active.

10. The injectable implantation system of claim 4 wherein the modifier is selected from the group consisting of fibronectin and cytokines.

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13. The injectable implantation system of claim 3 being particularly characterized in that the compatible physiological vehicle is a bodily compatible fluid selected from the group consisting of hydrogels, glucose, starch, silicone fluid, lipid and a hyaluronate.

12. The injectable implantation system of claim 3 being particularly characterized in that the biologically inert particles are formed of bodily compatible solids selected from the group consisting of silicone rubbers, polytetrafluoroethylene, polyethylene, and other biologically inert polymer materials.

13. The injectable implantation system of claim 12 being particularly characterized in that the average particle size is at least 60 microns.

14. The injectable implantation system of claim 13 further characterized by micro particles having a textured surface of pores of an average size between about 10 microns and about 200 microns.

15. The injectable implantation system of claim 12 being particularly characterized in that the range of average particle size is between 100 microns to 600 microns.

16. The injectable implantation system of claim 3 being particularly characterized in that the average particle size is at least 60 microns.

17. The injectable implantation system of claim 16 being particularly characterized in that the biologically inert micro particles are of a generally uniform configuration.

18. The injectable implantation system of claim 3 being particularly characterized in that the range of average particle size is between 100 microns to 600 microns.

19. A non-migratory injectable particulate implantation system for long-term augmentation of soft tissue, comprising in combination:

- (a) generally soft, resilient biologically inert, micro particles of a material of a material not resorbed by the body dispersed in a non-retentive compatible physiological vehicle, the micro particles being further characterized by a surface texture having a plurality of surface irregularities generally randomly formed therein;

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(b) said implantation system having, in combination, an average particle size range and average particle texture such that migration from an injection site is substantially precluded in an autogenous manner and individual particle non-chronic inflammatory scar tissue encapsulation occurs, said particles thereby remaining in situ to form part of said implantation system.

20. An injectable particulate implantation system for long-term augmentation of soft tissue, comprising in combination:

(a) generally soft, resilient biologically inert nonresorbing implant particles having a generally rough surface dispersed in a non-retentive compatible physiological vehicle, the micro particles being of a generally uniform configuration and being further characterized by a surface texture having a plurality of surface irregularities separated by connective members generally randomly formed therein;

(b) the textured particles being formed of materials selected from the group consisting of silicone rubbers, polytetrafluoroethylene, polyethylene, and other biologically inert polymer materials, and having an average particle size generally between 60 and 3000 microns with dimensions of surface irregularities within the particles being generally in a range between 10 angstroms and 500 microns; and

(c) said implantation system incorporating an average particle size and average texture roughness to, in combination in an autogenous manner, substantially preclude migration of said particles from an injection site and achieve adequate guidance of fibroblasts such that a scar tissue pattern is developed that assumes a configuration that is generally in accordance with adjacent particle surfaces, said particles thereby remaining in situ to form a permanent part of said implantation system.

SEP-18-07

09:57AM

FROM-Kagan Binder, PLLC

651 351 2954

T-917

P.031/062

F-967



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CHARLES G MERSEREAU
HAUGEN AND NIKOLAI
820 INTERNATIONAL CENTRE
900 SECOND AVENUE SOUTH

MAINTENANCE FEE STATEMENT

The data shown below is from the records of the U.S. Patent and Trademark Office. If the maintenance fee and any necessary surcharge have been timely paid for the patent listed below, the notation "PAID" will appear in the "STAT" column.

If the statement of small entity status is defective the reason will be indicated below in the "Small Entity" status column. THE STATEMENT OF SMALL ENTITY STATUS WILL BE ENTERED UPON RECEIPT OF ACCEPTABLE CORRECTION.

PATENT NUMBER	FEE AMT	SUR CHARGE	U.S. APPLICATION NUMBER	PATENT ISSUE DATE	APPL. FILING DATE	PAYMENT YEAR	SMALL ENTITY?	STAT	ATTY DKT NUMBER
5,571,182	\$1,045.00	\$0.00	08/321,571	11/05/96	10/10/94	08	YES	PAID	910521.CCO

Direct any questions about this notice to:
Mail Stop M Correspondence
Director of the U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

EXHIBIT C**CLAIM CHART**

This chart demonstrates the Macroplastique® implants practice the language of the claims. It is noted that Figures 1-6 of US Patent 5,571,182 fairly and accurately represent the actual structure of the Macroplastique® particles ("Product"), and that the application maturing into the 5,571,182 patent was specifically drafted so as to disclose and claim the medical device to be ultimately produced and marketed by applicant Uroplasty, Inc.

Reference is made to the following claim chart for specific reference to the corresponding features of the Product:

Table 1: Claims and Support for Patent 5,571,182

Claim	Support
<p>1. An injectable particulate implantation system for long-term augmentation of soft tissue, comprising</p> <p>a) an amount of generally soft, malleable, elastic, biologically compatible non-resorbing prosthetic particles dispersed in a non-retentive compatible physiological vehicle, said particles being further characterized by a rough surface texture having a plurality of surface irregularities generally randomly formed therein;</p> <p>b) said implantation system incorporating a combination of average particle size and average particle texture sufficient to cooperate in an autogenous manner to substantially prevent loss of said particles from an augmentation site, said particles remaining in situ to form part of a permanent implant.</p>	<p>Macroplastique® micro particles have passed ISO 10993 testing for biocompatibility and are made of a soft, malleable and silicone elastomer material.</p> <p>The particles are dispersed in polyvinylpyrrolidone, a non-retentive compatible physiological vehicle.</p> <p>Macroplastique® micro particles are consistent with the particles illustrated in Figures 1, 2, 5, and 6 and have a rough surface texture with irregularities forming opening at random.</p> <p>Migration of Macroplastique® micro particles have not been observed in animal or clinical studies.</p>
<p>2. The injectable implantation system of claim 1 being particularly characterized in that the range of average particle size is between 100 and 600 microns.</p>	<p>The average Macroplastique® particle size ranges between 30 and 3000 microns.</p>

<p>3. An injectable particulate implantation system for long-term augmentation of soft tissue, comprising in combination:</p> <p>a) biologically compatible particles of a relatively soft, resilient, non-resorbing material dispersed in a non-retentive compatible physiological vehicle, the particles being further characterized by a rough surface having a plurality of surfaces irregularities randomly formed therein and further comprising openings or pores;</p> <p>b) the particles having an average particle size generally between 30 and 3000 microns with a dimension of the openings formed by the pores within the particles being generally in a range between 10 angstroms and 500 microns,</p> <p>c) wherein the implantation system average particle size and average roughness of texture are sufficient in combination to, in an autogenous manner, substantially preclude migration of the particles from an augmentation site such that the particles remain in situ to form part of the permanent implant.</p>	<p>See support for Claim 1.</p> <p>See support for Claim 2. Openings in the micro particles are in the range of 10 angstroms and 500 microns.</p> <p>See support for Claim 1,</p>
<p>12. The injectable implantation system of claim 3 being particularly characterized in that the biologically inert particles are formed of bodily compatible solids selected from the group consisting of silicone rubbers, polytetrafluoroethylene, polyethylene, and other biologically inert polymer materials.</p>	<p>Macroplastique® micro particles are made of silicone rubber, a biologically inert polymer material.</p>
<p>13. The injectable implantation system of claim 12 being particularly characterized in that the average particle size is at least 60 microns.</p>	<p>The Macroplastique® micro particle average size is greater than 60 microns.</p>
<p>15. The injectable implantation system of claim 12 being particularly characterized in that the average range of particle size is between 100 microns to 600 microns.</p>	<p>The average particle size of Macroplastique® micro particles are greater than 60 microns.</p>

16. The injectable implantation system of claim 3 being particularly characterized in that the average particle size is at least 60 microns.	The Macroplastique® micro particle average size is greater than 60 microns.
17. The injectable implantation system of claim 16 being particularly characterized in that the biologically inert micro particles are of a generally uniform configuration.	Macroplastique® micro particles are generally uniform in configuration consistent with the micro particles illustrated in Figures 1, 2, 5, and 6.
18. The injectable implantation system of claim 3 being particularly characterized in that the average particle size is between 100 microns to 600 microns.	See support for Claim 1.
19. A non-migratory injectable particulate implantation system for long-term augmentation of soft tissue, comprising in combination: a) generally soft, resilient biologically inert, micro particles of a material not resorbed by the body dispersed in a non-retentive compatible physiological vehicle, the micro particles being further characterized by a surface texture having a plurality of surface irregularities generally randomly formed therein; b) said implantation system having, in combination, an average particle size range and average particle texture such that migration from an injection site is substantially precluded in an autogenous manner and individual particle non-chronic inflammatory scar tissue encapsulation occurs, said particles thereby remaining in situ to form part of said implantation system.	See support for Claim 1. See support for Claim 1. Histopathology demonstrates encapsulation.

20. An injectable particulate implantation system for long-term augmentation of soft tissue, comprising in combination;

a) generally soft, resilient biologically inert nonresorbing implant particles having a generally rough surface dispersed in a non-retentive compatible physiological vehicle, the micro particles being of a generally uniform configuration and being further characterized by a surface texture having a plurality of surface irregularities separated by connective members generally randomly formed therein;

b) the textured particles being formed of materials selected from the group consisting of silicone rubbers, polytetrafluoroethylene, polyethylene, and other biologically inert polymer materials and having an average particle size generally between 60 and 3000 microns with dimensions of surface irregularities within the particles being generally in a range between 10 angstroms and 500 microns; and

c) said implantation system incorporating an average particle size and average texture roughness to, in combination in an autogenous manner, substantially preclude migration of said particles from an injection site and achieve adequate guidance of fibroblasts such that a scar tissue pattern is developed that assumes a configuration that is generally in accordance with adjacent particle surfaces, said particles thereby remaining in situ to form a permanent part of said implantation system.

See support for Claim 1.

See support for Claim 12.
See support for Claim 2
See support for Claim 3.

See support for Claim 1.

32416



Uroplasty

June 30, 1999

Food and Drug Administration
Center for Devices and Radiological Health
IDE Document Mail Center (HFZ-401)
9200 Corporate Boulevard
Rockville, Maryland 20850

Uroplasty, Inc
2718 Summer Street NE
Minneapolis, MN 55413-2820
Phone: (612) 378-1180
Fax: (612) 378-2027
e-mail: info.usa@uroplasty.com

Subject: *IDE Submission for the Macroplastique® System*

To Whom It May Concern:

The enclosed binders represent an original IDE Submission for the Macroplastique® System (3 copies enclosed with this shipment). Macroplastique and its accessories are currently registered and marketed in the European Union, Canada, Australia, and many other nations worldwide.

The following information is relevant to this submission:

Device Name: Macroplastique® System

Intended Use: The Macroplastique system is intended for the treatment of female stress urinary incontinence caused by intrinsic sphincter deficiency.

Sponsor: Uroplasty, Inc.
2718 Summer Street NE
Minneapolis, MN 55413-2820
United States

Sponsor Contact: Michael Morrell, Regulatory Manager
Tel: 612-378-1180
Fax: 612-378-2027

Manufacturer: Uroplasty BV
Industrieweg 12
5627 BS Eindhoven
The Netherlands

Manufacturer Contact: Susan Hartjes Holman
Tel: +31-40-2926194 (The Netherlands)
Fax: +31-40-2926196 (The Netherlands)

Referenced Files: *Applied Silicone Corporation Master File Number 645*
International Specialty Products Drug Master File Number 78
(authorization from the holders is included with the submission)

Macroplastique[®] System IDE

Confidential

INVESTIGATIONAL DEVICE EXEMPTION for the Macroplastique System

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SEP-18-07

10:00AM FROM-Kagan Binder, PLLC

651 351 2954

T-817 P.042/062 F-967



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
9200 Corporate Boulevard
Rockville MD 20850

SEP 16

Mr. Michael Morrell, RAC, CQE
Regulatory Manager
Uroplasty, Inc.
2718 Summer Street NE
Minneapolis, Minnesota 55413-2820

Re: G990150/S1
Macroplastique® System
Dated: August 24, 1999
Received: August 25, 1999

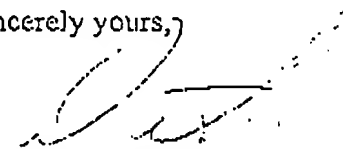
Dear Mr. Morrell:

The Food and Drug Administration (FDA) has reviewed the supplement to your investigational device exemptions (IDE) application. You have corrected the deficiencies cited in our July 30, 1999, conditional approval letter. Therefore, your application is approved and you may continue your investigation at the institutions enrolled in accordance with the investigational site waiver granted in our July 30 letter, amended here to reflect 2 additional sites. Your investigation is limited to 8 institutions and 260 subjects.

We would like to point out that FDA approval of your IDE supplement does not imply that this investigation will develop sufficient safety and effectiveness data to assure FDA approval of a premarket approval (PMA) application for this device. You may obtain the guideline for the preparation of a PMA application, entitled "Premarket Approval (PMA) Manual," from the Division of Small Manufacturers Assistance at its toll-free number (800) 638-2041 or (301) 443-6597.

If you have any questions, please contact Ms. Nicole L. Wolanski at (301) 594-2194.

Sincerely yours,


CAPT Daniel G. Schultz, M.D.
Acting Director, Division of Reproductive,
Abdominal, Ear, Nose and Throat,
and Radiological Devices
Office of Device Evaluation
Center for Devices and Radiological Health



Uroplasty

December 21, 2004

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Food and Drug Administration
9200 Corporate Blvd.
Rockville, MD 20850
Phone: 1-301-594-2194

Regarding: Original PMA Submission for Macroplastique® Implants

Dear Ms. Morris:

Uroplasty, Inc. is submitting this original premarket approval application for Macroplastique Implants, an injectable bulking agent intended for use in treating female stress urinary incontinence or SUI. The pivotal clinical study of Macroplastique was initiated on January 7, 2000 (date of first implantation) and was conducted at 12 sites located in the United States and Canada under an approved investigational device exemption, IDE G990150.

The sponsor of this PMA is Uroplasty, Inc. located in Minneapolis, Minnesota. The Uroplasty, Inc. office is the corporate headquarters of Uroplasty and the location where the polydimethylsiloxane component of Macroplastique is manufactured. The US facility will be available for inspection after May 1, 2005. The name and address of the United States facility is as follows.

Uroplasty, Inc.
2718 Summer Street NE
Minneapolis, MN, 55413-2820
United States

Uroplasty, Inc. (United States) owns and operates a manufacturing facility located in the city of Eindhoven in The Netherlands. The Uroplasty BV office in Eindhoven serves as the production facility for Macroplastique. The Eindhoven facility will be available for inspection after May 1, 2005 and is located at the following address:

Uroplasty BV
Industrieweg 12
5627 BS Eindhoven
The Netherlands

Following this cover letter is the PMA submission for Macroplastique Implants. It is divided into four Modules: Introductory Module, Manufacturing Module, Nonclinical Module and the Clinical Module. Each module comprises one or more volumes, as shown in the table at the end of this letter. Page numbering shows the module number followed by a sequential page number (for example, "3-23" is page 23 of module 3). Similarly, attachment numbering shows the module

Macroplastique PMA Submission Cover Letter
December 21, 2004
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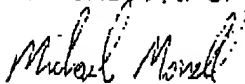
number followed by a sequential attachment number (for example attachment 3-12 is the 12th attachment to Module 3).

The existence of this PMA and the data and other information that it contains are confidential, and protection afforded to such confidential information by 18 USC 1905, 21 USC 331 (i), 5 USC 552, and other applicable laws is hereby claimed

This PMA is the first marketing application ever submitted by Uroplasty, Inc. As such, it qualifies for a waiver of the standard PMA review fee. A completed copy of the Medical Device User Fee Cover Sheet (Form FDA 3601) generated by the CDRH website follows this cover letter. In order to assist with the filing review, a copy of the PMA filing checklist identifying the location of all required PMA elements also follows this cover letter.

I have enclosed 12 copies of this submission including 3 original signed copies. The original signed copies include 1 CD Rom in the introductory module containing the patient labeling and a second CD Rom in the clinical module containing the clinical study raw data. If there are any questions regarding the information provided in this submission, please contact me at the address below. Thank you for your review of this submission and I look forward to working with you in the months ahead.

Sincerely,
UROPLASTY, INC.



Michael Morrell, RAC
Director of Regulatory Affairs
Tel: 612-378-1180 Ext. 227
Fax: 612-378-2027
E-mail: mike.morrell@uroplasty.com

Attachments: Medical Device User Fee Cover Sheet (Copy)
PMA Filing Checklist completed by Uroplasty, Inc.

Enclosures: PMA Application As Described in the Table Below:

PMA Module	Number of Volumes	Number of Copies (Includes 3 Signed Originals)
Introductory Module	1	12
Manufacturing Module	2	12
Nonclinical Module	5	12
Clinical Module	2	12

Uroplasty, Inc.
PMA application: Macroplastique® Implants
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Uroplasty, Inc.

PMA application: Macroplastique® Implants

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Uroplasty, Inc.

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Uroplasty, Inc.

PMA application: Macroplastique® Implants

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Uroplasty, Inc.

PMA application: Macroplastique® Implants

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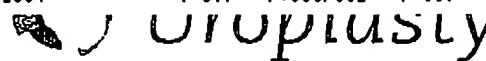
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February 9, 2003

Uroplasty, Inc.
2718 Summer Street NE
Minneapolis, MN 55413-2820
Phone: (612) 378-1180
Fax: (612) 378-2027
e-mail: info.usa@uroplasty.com

Janine Morris
Chief, Urology and Lithotripsy Devices Branch
Division of Reproductive, Abdominal, and Radiological Devices
Office of Device Evaluation
Center for Devices and Radiological Health
Food and Drug Administration
9200 Corporate Boulevard
Rockville, Maryland 20850

Regarding: G990150 (Macroplastique[®] System) Site Update

Dear Ms. Morris:

This supplement regards your July 30, 1999 IDE conditional approval and September 16, 1999 IDE approval letters allowing Uroplasty to conduct an IDE study for the Macroplastique System. The July 30, 1999 letter contained a site waiver that requires Uroplasty to provide specific information about the investigational sites at six month intervals. Pursuant to this site waiver, Uroplasty would like to provide the summary of investigational sites listed in Attachment 1.

Enrollment for the study was completed in February 2003. A PMA Application for Macroplastique, incorporating the G990150 IDE study results was submitted to the FDA on December 21, 2004 and assigned the document control number P040050. The 24-month surveillance arm for Macroplastique patients is still ongoing and is expected to be completed around July 21, 2005.

The listing of sites that follows in Attachment 1 is identical to the site listing that appears in the 2004 annual progress report. Since enrollment for the study was completed in 2003, Uroplasty does not expect the site listing to change for the remainder of the study.

Please do not hesitate to contact me should you have any questions or comments about this supplement.

Sincerely,
UROPLASTY, INC.

A handwritten signature in dark ink, appearing to read "Michael Morrell".

Michael Morrell, RAC
Director of Regulatory Affairs
Tel: 612-378-1180 Ext. 227
Fax: 612-378-2027
E-mail: mike.morrell@uroplasty.com

Attachment 1 Summary of Investigational Sites

Food and Drug Administration
9200 Corporate Boulevard
Rockville MD 20850

OCT 30 2006

Mr. Michael Morrell, RAC
Director of Regulatory Affairs
Uroplasty, Inc.
2718 Summer Street, N.E.
MINNEAPOLIS MN 55413

Re: P040050
Macroplastique® Implants
Filed: December 22, 2004
Amended: February 28, March 4, and September 16, 2005, and
March 16, August 29, and September 19, 2006
Procude: LNM

Dear Mr. Morrell:

The Center for Devices and Radiological Health (CDRH) of the Food and Drug Administration (FDA) has completed its review of your premarket approval application (PMA) for Macroplastique® Implants. This device is indicated for transurethral injection in the treatment of adult women diagnosed with stress urinary incontinence (SUI) primarily due to intrinsic sphincter deficiency (ISD). We are pleased to inform you that the PMA is approved. You may begin commercial distribution of the device in accordance with the conditions described below and in the "Conditions of Approval" (enclosed).

The sale, distribution, and use of this device are restricted to prescription use in accordance with 21 CFR 801.109 within the meaning of section 520(e) of the Federal Food, Drug, and Cosmetic Act (the act) under the authority of section 515(d)(1)(B)(ii) of the act. FDA has also determined that, to ensure the safe and effective use of the device, the device is further restricted within the meaning of section 520(e) under the authority of section 515(d)(1)(B)(ii), (1) insofar as the labeling specify the requirements that apply to the training of practitioners who may use the device as approved in this order, and (2) the sale, distribution, and use must not violate sections 502(q) and (r) of the act.

In addition to the postapproval requirements outlined in the enclosure, you have agreed to provide the following data in a postapproval report:

1. Results of a 5-year registry: This registry will enroll a minimum of 275 patients and follow them for 5 years per the protocol submitted in Amendment 6 (received on September 19, 2006). The objectives of this follow-up are to evaluate the long-term safety and effectiveness of Macroplastique® Implants (e.g., durability of the treatment effect, the impact of retreatment). Reports will be submitted every 6 months for the first 2 years following PMA approval, and annually thereafter.

Page 2 - Mr. Michael Morrell

2. Results of a 2-year enhanced surveillance program: For the first 2 years following PMA approval, you will conduct an enhanced surveillance program to actively solicit adverse event information related to the use of Macroplastique® Implants. This program consists of quarterly contact with U.S. physicians using Macroplastique® Implants. Reports will be submitted every 6 months for the first 2 years following PMA approval.

Expiration dating for this device has been established and approved at 2 years. This is to advise you that the protocol you used to establish this expiration dating is considered an approved protocol for the purpose of extending the expiration dating as provided by 21 CFR 814.39(a)(7).

CDRH does not evaluate information related to contract liability warranties, however you should be aware that any such warranty statements must be truthful, accurate, and not misleading, and must be consistent with applicable Federal and State laws.

CDRH will notify the public of its decision to approve your PMA by making available a summary of the safety and effectiveness data upon which the approval is based. The information can be found on the FDA CDRH Internet HomePage located at <http://www.fda.gov/cdrh/pmapage.html>. Written requests for this information can also be made to the Dockets Management Branch, (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. The written request should include the PMA number or docket number. Within 30 days from the date that this information is placed on the Internet, any interested person may seek review of this decision by requesting an opportunity for administrative review, either through a hearing or review by an independent advisory committee, under section 515(g) of the Federal Food, Drug, and Cosmetic Act (the act).

Failure to comply with any postapproval requirement constitutes a ground for withdrawal of approval of a PMA. Commercial distribution of a device that is not in compliance with these conditions is a violation of the act.

You are reminded that, as soon as possible and before commercial distribution of your device, you must submit an amendment to this PMA submission with copies of all approved labeling in final printed form. The labeling will not routinely be reviewed by FDA staff when PMA applicants include with their submission of the final printed labeling a cover letter stating that the final printed labeling is identical to the labeling approved in draft form. If the final printed labeling is not identical, any changes from the final draft labeling should be highlighted and explained in the amendment.

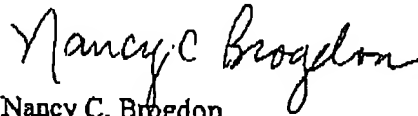
Page 3 - Mr. Michael Morrell, RAC

All required documents should be submitted in triplicate, unless otherwise specified, to the address below and should reference the above PMA number to facilitate processing.

PMA Document Mail Center (HFZ-401)
Center for Devices and Radiological Health
Food and Drug Administration
9200 Corporate Blvd.
Rockville, Maryland 20850

If you have any questions concerning this approval order, please contact Mr. John Baxley at (301) 594-2194.

Sincerely yours,



Nancy C. Brogdon
Director, Division of Reproductive,
Abdominal, and Radiological Devices
Office of Device Evaluation
Center for Devices and
Radiological Health

Enclosure

Last Modified: 10-18-06

CONDITIONS OF APPROVAL

PREMARKET APPROVAL APPLICATION (PMA) SUPPLEMENT. Before making any change affecting the safety or effectiveness of the device, submit a PMA supplement for review and approval by FDA unless the change is of a type for which a "Special PMA Supplement-Changes Being Effected" is permitted under 21 CFR 814.39(d) or an alternate submission is permitted in accordance with 21 CFR 814.39(e) or (f). A PMA supplement or alternate submission shall comply with applicable requirements under 21 CFR 814.39 of the final rule for Premarket Approval of Medical Devices.

All situations that require a PMA supplement cannot be briefly summarized; therefore, please consult the PMA regulation for further guidance. The guidance provided below is only for several key instances.

A PMA supplement must be submitted when unanticipated adverse effects, increases in the incidence of anticipated adverse effects, or device failures necessitate a labeling, manufacturing, or device modification.

A PMA supplement must be submitted if the device is to be modified and the modified device should be subjected to animal or laboratory or clinical testing designed to determine if the modified device remains safe and effective.

A "Special PMA Supplement - Changes Being Effected" is limited to the labeling, quality control and manufacturing process changes specified under 21 CFR 814.39(d)(2). It allows for the addition of, but not the replacement of previously approved, quality control specifications and test methods. These changes may be implemented before FDA approval upon acknowledgment by FDA that the submission is being processed as a "Special PMA Supplement - Changes Being Effected." This procedure is not applicable to changes in device design, composition, specifications, circuitry, software or energy source.

Alternate submissions permitted under 21 CFR 814.39(e) apply to changes that otherwise require approval of a PMA supplement before implementation of the change and include the use of a 30-day PMA supplement or annual postapproval report (see below). FDA must have previously indicated in an advisory opinion to the affected industry or in correspondence with the applicant that the alternate submission is permitted for the change. Before such can occur, FDA and the PMA applicant(s) involved must agree upon any needed testing protocol, test results, reporting format, information to be reported, and the alternate submission to be used.

Alternate submissions permitted under 21 CFR 814.39(f) for manufacturing process changes include the use of a 30-day Notice. The manufacturer may distribute the device 30 days after the date on which the FDA receives the 30-day Notice, unless the FDA notifies the applicant within 30 days from receipt of the notice that the notice is not adequate.

POSTAPPROVAL REPORTS. Continued approval of this PMA is contingent upon the submission of postapproval reports required under 21 CFR 814.84 at intervals of 1 year from the date of approval of the original PMA. Postapproval reports for supplements approved under the original PMA, if applicable, are to be included in the next and subsequent annual reports for the original PMA unless specified otherwise in the approval order for the PMA supplement. Two copies identified as "Annual Report" and bearing the applicable PMA reference number are to be submitted to the PMA Document Mail Center (HFZ-401), Center for Devices and Radiological Health, Food and Drug Administration, 9200 Corporate Blvd., Rockville, Maryland 20850. The postapproval report shall indicate the beginning and ending date of the period covered by the report and shall include the following information required by 21 CFR 814.84:

1. Identification of changes described in 21 CFR 814.39(a) and changes required to be reported to FDA under 21 CFR 814.39(b).
2. Bibliography and summary of the following information not previously submitted as part of the PMA and that is known to or reasonably should be known to the applicant:
 - a. unpublished reports of data from any clinical investigations or nonclinical laboratory studies involving the device or related devices ("related" devices include devices which are the same or substantially similar to the applicant's device); and
 - b. reports in the scientific literature concerning the device.

If, after reviewing the bibliography and summary, FDA concludes that agency review of one or more of the above reports is required, the applicant shall submit two copies of each identified report when so notified by FDA.

ADVERSE REACTION AND DEVICE DEFECT REPORTING. As provided by 21 CFR 814.82(a)(9), FDA has determined that in order to provide continued reasonable assurance of the safety and effectiveness of the device, the applicant shall submit 3 copies of a written report identified, as applicable, as an "Adverse Reaction Report" or "Device Defect Report" to the PMA Document Mail Center (HFZ-401), Center for Devices and Radiological Health, Food and Drug Administration, 9200 Corporate Blvd., Rockville, Maryland 20850 within 10 days after the applicant receives or has knowledge of information concerning:

1. A mix-up of the device or its labeling with another article.
2. Any adverse reaction, side effect, injury, toxicity, or sensitivity reaction that is attributable to the device and:
 - a. has not been addressed by the device's labeling; or
 - b. has been addressed by the device's labeling but is occurring with unexpected severity or frequency.

3. Any significant chemical, physical or other change or deterioration in the device, or any failure of the device to meet the specifications established in the approved PMA that could not cause or contribute to death or serious injury but are not correctable by adjustments or other maintenance procedures described in the approved labeling. The report shall include a discussion of the applicant's assessment of the change, deterioration or failure and any proposed or implemented corrective action by the applicant. When such events are correctable by adjustments or other maintenance procedures described in the approved labeling, all such events known to the applicant shall be included in the Annual Report described under "Postapproval Reports" above unless specified otherwise in the conditions of approval to this PMA. This postapproval report shall appropriately categorize these events and include the number of reported and otherwise known instances of each category during the reporting period. Additional information regarding the events discussed above shall be submitted by the applicant when determined by FDA to be necessary to provide continued reasonable assurance of the safety and effectiveness of the device for its intended use.

REPORTING UNDER THE MEDICAL DEVICE REPORTING (MDR) REGULATION.

The Medical Device Reporting (MDR) Regulation became effective on December 13, 1984. This regulation was replaced by the reporting requirements of the Safe Medical Devices Act of 1990 which became effective July 31, 1996 and requires that all manufacturers and importers of medical devices, including in vitro diagnostic devices, report to the FDA whenever they receive or otherwise become aware of information, from any source, that reasonably suggests that a device marketed by the manufacturer or importer:

1. May have caused or contributed to a death or serious injury; or
2. Has malfunctioned and such device or similar device marketed by the manufacturer or importer would be likely to cause or contribute to a death or serious injury if the malfunction were to recur.

The same events subject to reporting under the MDR Regulation may also be subject to the above "Adverse Reaction and Device Defect Reporting" requirements in the "Conditions of Approval" for this PMA. FDA has determined that such duplicative reporting is unnecessary. Whenever an event involving a device is subject to reporting under both the MDR Regulation and the "Conditions of Approval" for a PMA, the manufacturer shall submit the appropriate reports required by the MDR Regulation within the time frames as identified in 21 CFR 803.10(c) using FDA Form 3500A, i.e., 30 days after becoming aware of a reportable death, serious injury, or malfunction as described in 21 CFR 803.50 and 21 CFR 803.52 and 5 days after becoming aware that a reportable MDR event requires remedial action to prevent an unreasonable risk of substantial harm to the public health. The manufacturer is responsible for submitting a baseline report on FDA Form 3417 for a device when the device model is first reported under 21 CFR 803.50. This baseline report is to include the PMA reference number. Any written report and its envelope is to be specifically identified, e.g., "Manufacturer Report," "5-Day Report," "Baseline Report," etc.

Any written report is to be submitted to:

Food and Drug Administration
Center for Devices and Radiological Health
Medical Device Reporting
PO Box 3002
Rockville, Maryland 20847-3002

Additional information on MDR is available at <http://www.fda.gov/cdrh/devadvice/351.html>

EM130311225US

PATENT APPLICATION

OUR FILE NO. 910521.CCO

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re App : Robert A. Ersek et al : March 29, 1996
S. N. : 08/321,571 : Art Unit 3308
Filed : October 10, 1994 : Examiner D. Brittingham
For : TEXTURED MICRO IMPLANTS

TERMINAL DISCLAIMER

The Commissioner of Patents and Trademarks
Washington, D. C. 20231

Sir:

Your Petitioner, UROPLASTY, INC., with principal offices located at 2718 Summer Street N.E., in the City of Minneapolis, County of Hennepin, State of Minnesota, represents that it is the Assignee of the above-entitled patent application as evidenced by mesne assignments recorded in the U. S. Patent and Trademark Office and as detailed known as Certificate Under 37 C.F.R. § 3.73(b) submitted herewith. Your Petitioner, UROPLASTY, INC., hereby disclaims the terminal part of any patent granted on the above-identified application, which would extend beyond the expiration date of U. S. Patent No. 5,258,028 and hereby agrees that any patents so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U. S. Patent No. 5,258,028 under 35 U.S.C. 120. This agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors or assigns.

In making the above Disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend beyond the expiration date of the full statutory term as defined in 35 U.S.C. 154-156 and 173 of the above-referenced patent 5,258,028 in the event that that patent expires for failure to pay a maintenance fee, is held unenforceable, is

found invalid by a court of competent jurisdiction, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this

1st day of APRIL, 1996.

UROPLASTY, INC.

BY

Donald P. Nij

Its: Vice Pres. of Finance / cfo

Attest:

Linda J. Rice

PATENT APPLICATION

OUR FILE NO. 910521.CCO

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re App : Robert A. Ersek et al
S.N. : 08/321,571 : March 29, 1996
Filed : October 10, 1994 : Art Unit 3308
For : TEXTURED MICRO IMPLANTS : Examiner D. Brittingham

CERTIFICATE UNDER 37 C.F.R. § 3.73(b)

UROPLASTY, INC., a corporation of the State of Minnesota, certifies that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of either:

A. [] An assignment from the inventor(s) of the patent application identified above. The assignment was recorded in the Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. [X] A chain of title from the inventor(s), of the great-grandparent patent applications S.N. 07/282,671, filed December 12, 1988, now abandoned, to the current assignee as shown below:

1. An assignment of the great-grandparent application S.N. 07/282,671, filed December 12, 1988, from Robert A. Ersek, Arthur A. Beisang, Arthur A. Beisang, III, to Bioplasty, Inc. The document was recorded in the Patent and Trademark Office on February 2, 1990 at Reel 5249, Frame 0014-0016, for which a copy is attached.
2. An assignment of the grandparent patent application, S.N. 07/714,273, filed June 12, 1991, which is a continuation-in-part of 07/282,671, in the name of the same three inventors, Robert A. Ersek, Arthur A. Beisang, Arthur A. Beisang, III, from Uroplasty, Inc., back to the three inventors, recorded October 1, 1992 at Reel 6294, Frame 0390-0393, for which a copy is attached.

3. An assignment from the inventors, Robert A. Ersek, Arthur A. Beisang, Arthur A. Beisang, III, of the grandparent application, S.N. 07/714,273, filed June 12, 1991, (continuation-in-part of 07/714,273) to Uroplasty, Inc., recorded October 3, 1994, at Reel 7153, Frames 0990 and 0991, for which a copy is attached.
4. An assignment from Bioplasty, Inc., to Uroplasty, Inc., of any interest of Bioplasty, Inc., in the great-grandparent application, S.N. 07/282,671, and any other applications in the chain to Uroplasty, Inc., of even date with this Declaration and which has been submitted for recording at the present time.
5. Additional documents in the chain of title are listed as follows:
 - a) Continuation-in-part application filed June 12, 1993 as S.N. 07/714,273, which is a continuation-in-part application of application S.N. 07/282,671, filed December 12, 1988, now abandoned;
 - b) Continuing application (of S.N. 07/714,273, Pat. 5 258 028) under 37 C.F.R. § 1.60 dated April 22, 1993, S.N. 08/052,414; and
 - c) File Wrapper continuing application (FWC) under 37 C.F.R. § 1.62 dated October 19, 1994, S.N. 08/321,571 (of S.N. 08/052,414, Pat. 5 258 028).

The undersigned has reviewed all the documents in the chain of title of the patent application identified above and, to the best of undersigned's knowledge and belief, title is in the assignee identified above.

The undersigned (whose title is supplied below) is empowered to act on behalf of the assignee.

I hereby declare that all statements herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that

such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: April 1, 1996 UROPLASTY, INC.

By:

Its:

Donald C. King
Vice Pres. of Finance / CFO